HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.11944 of 1995

Dated: 19.01.2007

Between

G.Sambasivarao

..... Petitioner

And

Airport Director, Airports Authority of India, (NA Division), Hyderabad.

.....Respondent

HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.11944 of 1995

ORDER:

This writ petition is filed seeking a Mandamus to declare the proceedings of the first respondent in ref.No.D21015/34/87-Bud/NAA/613 dated 08.07.1994 and the office notice of the third respondent No.AAI/NAD/HY/TA/95-96 dated 05.06.1995, as illegal and inoperative and to direct the said respondents to forbear from acting in any manner in accordance with the said proceedings including by way of recovery of salary of the petitioner.

It appears the petitioner was deputed to Baltimore in United States of America on 30.08.1993 for training in Civil Aviation Operations up to 03.12.1993 (97 days). The Airports Authority of India addressed the Reserve Bank of India to give permission for withdrawal of foreign exchange to the petitioner and 11 others to cover expenses of travelling and stay abroad and to meet certain expenses during the training period. The first respondent recommended for withdrawal of US $ 20370 (at the rate of US $ 210 per day) for each candidate to meet the expenses. However, the Reserve Bank of India issued permit dated 28.08.1993 allowing drawal of US $ 17,550 for each candidate towards living expenses. Accordingly, the petitioner withdrew the amount from Vijaya Bank, New Delhi and proceeded to Baltimore, United States of America, to undergo training. After completion of the training, he retuned to India on 05.12.1993 and submitted his Travelling Allowance Settlement Bill showing the entire amount received in foreign exchange as living expenses. Thereafter, he received a communication from the Deputy Director (Finance) in the Office of the first respondent on 08.07.1994 bearing No.D21015/34/87-

Bud/NAA/613 stating that the amount of foreign exchange drawn by him i.e., US $17,550 was settled as follows: -

D.A. released (claimed)			As per adjustment bills (entitlement)			Excess between DA released & entitlement		
55% of DA as Cash	45% of DA as lodging allow-ance	Total	55% of DA as cash allow-ance	45% of DA as lodging allow-ance	Total	55% of DA as cash allow-ance	45% of DA as lodging allow-ance	Total
9653	7897	17550	9653	6000	15653	-	1897	1897

Further, the petitioner was asked to refund the excess foreign exchange of US $ 1897. Subsequently, the second respondent directed to deduct the said amount from the salary of the petitioner from the month of June 1995 onwards. US $ 1897 is equivalent to Rs.60,628-12 paise of Indian currency.

According to the petitioner, the said recovery ordered by the respondent is arbitrary and illegal.

In fact, the Reserve Bank of India, which is the competent authority for release of foreign exchange, reduced the amount from US $ 20,370 to US $ 17,550. The petitioner is entitled to drawal of the dearness allowance amount as per Rule 3 (iv) of the Dearness Allowance Entitlement Rules (for brevity 'the Rules') applicable to the Engineers. Further, it appears the petitioner also submitted representations dated 28.12.1994 and 15.03.1995 requesting the authorities to reconsider the matter and without considering the same, the first respondent confirmed the recovery proceedings for a sum of US $ 1897.

The second respondent filed a detailed counter denying the allegations made by the petitioner and asserted that as per the Rules, the dearness allowance is split up into two parts – 55% i.e., US $ 9653 as living allowance and 45% i.e., US $ 7897 as lodging allowance subject to production of the hotel bills. It is mandatory on the part of the officer concerned to comply with the procedure by enclosing the hotel bills to get the payment of the dearness allowance. In the instant case, the petitioner has produced the hotel bills for US $ 6000 only and for the rest of the amount i.e., US $ 1897 he has not produced any bills,

therefore, he was asked to refund the same.

Learned counsel appearing for the petitioner submits that it is difficult for the petitioner to get the hotel bills from United States of America and submit the same in India. In fact as per the Rules, 55% of the dearness allowance is for living expenses and 45% is for lodging expenses and as per the said procedure, the petitioner had submitted the bills. Instead of accepting the same, the respondents had raised unnecessary objections and ordered for refund of the amount.

Be that as it may, since the representations filed by the petitioner dated 28.12.1994 and 15.03.1995 were not disposed of and during the pendency of those representations, the impugned order dated 05.06.1995 was passed, the respondents are directed to dispose of the said representations, as expeditiously as possible, after duly putting the petitioner on notice and till such time, no coercive steps shall be taken against the petitioner.

With the above directions, the writ petition is disposed of. No order as to costs.

_____

(C.V.RAMULU, J)

19.01.2007
DR